

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA**

MAXWELL KADEL, *et al.*,

Plaintiffs,

v.

DALE FOLWELL, in his official capacity as
State Treasurer of North Carolina, *et al.*,

Defendants.

Case No. 1:19-cv-00272-LCB-LPA

DECLARATION OF DMITRIY TISHYEVICH

Pursuant to 28 U.S.C. § 1746, I, Dmitriy Tishyevich, do hereby declare as follows:

1. I am over 18 years of age.
2. I am a partner at the law firm McDermott Will & Emery LLP, and I serve as counsel of record for the Plaintiffs in the above-captioned matter.
3. I have personal knowledge of the facts stated herein, except those stated on information and belief, and if called upon, could and would testify competently to them.
4. I submit this declaration in support of Plaintiffs' Motion to Exclude Expert Testimony of Dr. Patrick Lappert.
5. Attached as **Exhibit 1** is a true and correct copy of Dr. Lappert's May 1, 2021 expert report submitted by Defendants in this matter. (Pages 47 to 55 of this report reference confidential medical information for individual Plaintiffs, are subject to the

concurrently-filed Plaintiffs’ Motion to Seal, and have been redacted from this exhibit accordingly.)

6. Attached as **Exhibit 2** is a true and correct copy of the transcript of the September 30, 2021 deposition of Dr. Lappert in this matter.

7. Attached as **Exhibit 3** is a true and correct copy of a printout of the webpage “Guidelines for Stating Certification Status,” published by the American Society of Plastic Surgeons, entered as Exhibit 2 at Dr. Lappert’s deposition.

8. Attached as **Exhibit 4** is a true and correct copy of the Code of Ethics of the American Society of Plastic Surgeons, updated September 25, 2017, entered as Exhibit 10 at Dr. Lappert’s deposition.

9. Attached as **Exhibit 5** is a true and correct copy of the Declaration of Dr. Patrick W. Lappert, filed on July 9, 2021 in *Brandt, et al. v. Rutledge, et al.*, E.D. Ark. (Case No. 4:12-cv-450-JM), entered as Exhibit 3 at Dr. Lappert’s deposition.

10. Attached as **Exhibit 6** is a true and correct copy of the August 2, 2021 Supplemental Order from *Brandt, et al. v. Rutledge, et al.*, E.D. Ark. (Case No. 4:12-cv-450-JM), entered as Exhibit 4 at Dr. Lappert’s deposition.

11. Attached as **Exhibit 7** is a true and correct copy of “Levels of Evidence in Plastic and Reconstructive Surgery Research: Have We Improved Over the Past 10 Years?,” by Conor M. Sugrue, FRCS, et al., published in *Plastic Reconstructive Surgery—Global Open* in September 2019, entered as Exhibit 17 at Dr. Lappert’s deposition.

12. Attached as **Exhibit 8** is a true and correct copy of a printout of the webpage “State Focus on Gender Affirmation Intensifies,” published by the American Society of Plastic Surgeons on February 25, 2021, entered as Exhibit 7 at Dr. Lappert’s deposition.

13. Attached as **Exhibit 9** is a true and correct copy of the Blue Cross Blue Shield of North Carolina Corporate Medical Policy, Gender Affirmation Surgery and Hormone Therapy, updated March 2021, entered as Exhibit 23 at Dr. Lappert’s deposition.

14. Attached as **Exhibit 10** is a true and correct copy of a printout of the webpage “Gender Affirming Surgery—Medical Clinical Policy Bulletins,” published by Aetna, updated January 2021, entered as Exhibit 30 at Dr. Lappert’s deposition.

15. Attached as **Exhibit 11** is a true and correct copy of the Cigna Medical Coverage Policy, Treatment of Gender Dysphoria, updated May 2021, entered as Exhibit 31 at Dr. Lappert’s deposition.

16. Attached as **Exhibit 12** is a true and correct copy of the United HealthCare Commercial Medical Policy, Gender Dysphoria Treatment, updated April 2021, entered as Exhibit 32 at Dr. Lappert’s deposition.

17. Attached as **Exhibit 13** is a true and correct copy of a document titled “Transgender ‘Transition’ Procedures Performed on Minors, Answers to Questions and Information for Joint Interim Committee, Submitted by [Utah House of Representatives member] Rep. Rex. P. Shipp,” dated June 10, 2021, entered as Exhibit 5 at Dr. Lappert’s deposition.

18. Attached as **Exhibit 14** is a true and correct copy of a printout of a webpage titled “Alabama bill that would criminalize treatment for transgender minors headed to full Alabama Senate,” published on www.rocketcitynow.com, dated February 14, 2021, entered as Exhibit 6 at Dr. Lappert’s deposition.

19. Attached as **Exhibit 15** is a true and correct copy of a presentation by Dr. Lappert titled “Transgender Surgery & Christian Anthropology,” entered as Exhibit 33 at Dr. Lappert’s deposition.

20. Attached as **Exhibit 16** is a true and correct copy of a printout of a webpage titled “Plastic surgeon: Sex-change operation ‘utterly unacceptable’ and a form of ‘child abuse,’” published on www.lifesitenews.com, entered as Exhibit 34 at Dr. Lappert’s deposition.

21. Attached as **Exhibit 17** is a true and correct copy of an abstract from C.M. Elliott & S. Wilhelm, “Body Dysmorphic Disorder,” in the Encyclopedia of Mental Health (2d ed., 2016), *available at* <https://doi.org/10.1016/B978-0-12-397045-9.00081-1>.

I declare under penalty of perjury that the foregoing is true and correct.

Dated this 2nd of February 2022.

/s/ Dmitriy Tishyevich
Dmitriy Tishyevich